

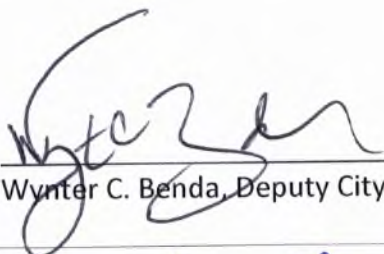


To the Honorable Council
City of Norfolk, Virginia

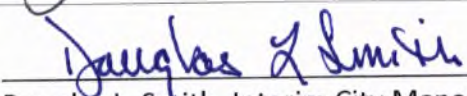
March 28, 2017

From: David S. Freeman, AICP, Director
Department of General Services

Subject: Acceptance of Bid for a Long Term Garage Parking Agreement with a term of approximately twenty (20) years, with the option to extend the term for up to four (4) additional periods of five (5) years each, for the lease of 145 parking spaces in the Commercial Place Garage located at 520 East Main Street in the City of Norfolk.

Reviewed: 
Wynter C. Benda, Deputy City Manager

Ward/Superward: 2/6

Approved: 
Douglas L. Smith, Interim City Manager

Item Number:

R-01

- I. **Recommendation:** Accept Highest Bid from a Responsible Bidder and Adopt Ordinance
- II. **Applicant:** City of Norfolk
- III. **Description:**
This agenda item is to accept a Long Term Garage Parking Agreement with a term of approximately twenty (20) years, with the option to extend the term for up to four (4) additional periods of five (5) years each, for the lease of 145 parking spaces in the Commercial Place Garage located at 520 East Main Street. The parking garage has sufficient available capacity to accommodate the 145 parking spaces required by this agreement.
- IV. **Analysis**
As stated above, sufficient capacity is available in the parking garage noted above to accommodate the potential demand of up to 145 total spaces. The term of the parking agreement would be approximately twenty (20) years, with the option to extend the term for up to four (4) additional periods of five (5) years each. Because the term is in excess of five (5) years, the proposed lease must be bid in accordance with the requirements of sections 15.2-2100, 15.2-2101 and 15.2-2102 of the *Code of Virginia*.

V. Financial Impact

Revenues from this agreement will support debt service and operations of the parking system.

VI. Environmental

N/A

VII. Community Outreach/Notification

In accordance with the *Norfolk City Charter* and *Code of Virginia*, legal notice was posted in *The Virginian-Pilot*. In addition, public notification for the agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of General Services, the Department of Development and the City Attorney's Office.

Supporting Material from the Department of General Services:

- Ordinance
- Exhibit A - Terms and Conditions of Proposed Long Term Parking Agreement
- Invitation to Bid

Form and Correctness Approved:

By

Office of the City Attorney

Contents Approved:

By

Department of General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING THE BID SUBMITTED BY CROWN CENTER ASSOCIATES, LLC FOR A LONG TERM GARAGE PARKING AGREEMENT, WITH A TERM OF 20 YEARS, FOR THE LEASE OF 145 PARKING SPACES IN THE COMMERCIAL PLACE GARAGE LOCATED AT 520 EAST MAIN STREET IN THE CITY OF NORFOLK.

- - -

WHEREAS, pursuant to the provisions of Section 15.2-2100, et seq., of the Code of Virginia, 1950, as amended, the City of Norfolk has invited bids for a lease of approximately 145 parking spaces in the Commercial Place Garage located at 520 East Main Street for a term of twenty (20) years and with the option to extend the term for up to four (4) additional periods of five (5) years each, subject to certain terms and conditions; and

WHEREAS, the requirements of Sections 15.2-2101 and 15.2-2102 of the Code of Virginia, 1950, as amended, have been met and the Council has carefully considered all bids submitted; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Crown Center Associates, LLC, being the highest responsible bidder, its bid for a parking agreement, with a term of twenty (20) years and with the option to extend the term for up to four (4) additional periods of five (5) years each, in accordance with the terms and conditions set forth in Exhibit A attached hereto, for 145 parking spaces in the

Commercial Place Garage located at 520 East Main Street in the City of Norfolk, is hereby accepted.

Section 2:- That pursuant to Section 15.2-2104 of the Code of Virginia, 1950, as amended, the Council has determined that a bond in the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) shall be executed in favor of the City of Norfolk.

Section 3:- That the City Manager is authorized to correct, amend, or revise the Garage Parking Agreement, containing the terms and conditions set forth in Exhibit A, as he may deem necessary in order to carry out the intent of the Council and to execute the Garage Parking Agreement, as corrected, amended, or revised in accordance herewith, for and on behalf of the City, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 4:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

Bernard Glasser
1910-1983
Melvin R. Zimm
1953-2009

Richard S. Glasser
Michael A. Glasser
William H. Monroe, Jr.
Kip A. Harbison
Mark K. Groves
Marc C. Greco
Daniel T. Bengston
Melissa M. Watson Goode
Erin C. Quinn
Chaunacie L. Wilkerson

GLASSER  GLASSER
AND P. L. C.

Attorneys and Counsellors at Law

Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510-2212
Telephone: (757) 625-6787
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www.glasserlaw.com

1932 – Celebrating our 85th Year – 2017

March 14, 2017

Rachel E. VanHorn
Robyn D. Pepin
Kelly R. Gring
Alicia A. Hilger
William D. Moore, III
Robert L. Peresich
Anders T. Sleight
Jeri Lynn Ganz
John J. Chappell, III
Myra A. Benjamin
Charles C. Euripides

* Also admitted in DC
** Also admitted in MD
*** Admitted only in MD
**** Also admitted in NC
***** Also admitted in DC and MD

HAND-DELIVERED

The Honorable R. Breckenridge Daughtrey, City Clerk
City of Norfolk
10th Floor – City Hall
Norfolk, Virginia 23510

*Crown Center Associates, LLC
Bid 03/21/2017*

RE: Bid of Crown Center Associates, L.L.C. for a long term garage parking agreement, with a term of 20 years plus 4 permitted renewals of 5 years each, for the Lease of 145 parking spaces in the Commercial Place Garage located at 520 East Main Street in the City of Norfolk

Dear Mr. Daughtrey:

Pursuant to Section 15.2-2101 of the Code of Virginia, 1950, as amended, and pursuant to the Invitation to Bid and Notice of Public Hearing on the above subject published on March 7 and 14, 2017, in The Virginian Pilot, Crown Center Associates, L.L.C. hereby tenders its bid for a long term garage parking agreement, with a term of 20 years plus 4 permitted renewals of 5 years, for the lease of 145 parking spaces in the Commercial Place Garage located at 520 East Main Street in the City of Norfolk.

Crown Center Associates, L.L.C., adopts the attached Exhibit A "Terms and Conditions of Proposed Long Term Garage Parking Agreement" as its bid which makes specific reference, among other things, to the term, rental rates, and other obligations of the City of Norfolk and the tenant. Crown Center Associates, L.L.C. agrees to be bound by the terms and conditions in the attached Exhibit A if its bid is accepted by the City of Norfolk.

Respectfully yours,
CROWN CENTER ASSOCIATES, L.L.C.
By CCA Managing Co., LLC, manager

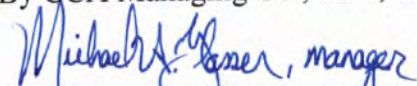

By Michael A. Glasser, manager

EXHIBIT A

TERMS AND CONDITIONS OF PROPOSED LONG TERM GARAGE PARKING AGREEMENT

1. PROVISION OF PARKING.

During the Term of this Agreement, the City shall provide Tenant parking in the Garage subject to the following conditions:

(a) The City hereby leases to Tenant and Tenant hereby leases from the City one hundred forty-five (145) parking spaces in the Garage (the "Maximum Allocated Amount") solely to provide parking for tenants and guests of the Property pursuant to the terms of this Agreement. Except as set forth in Section 1(b) below, the parking spaces leased hereunder shall be unreserved and shall be available on weekdays, Monday through Friday, from 6:00 a.m. to 9 p.m. (the "Weekday Parking Spaces").

(b) At Tenant's option, the parking spaces leased by Tenant pursuant to this Agreement shall include designated reserved spaces on the third (Crown Center entrance) level of the Garage and shall be available twenty-four (24) hours per day seven days per week, except as otherwise set forth in this Agreement (the "Reserved Spaces"). Tenant shall provide at least thirty (30) days' prior written notice to the City of the number of Reserved Spaces desired.

2. TERM.

Unless sooner terminated in accordance with the terms of this Agreement, the City's obligation to provide parking under this Agreement shall commence on October 27, 2016 (the "Commencement Date") and shall terminate on October 31, 2036 (the "Term"). Provided that Tenant is not then in default under this Agreement and there then exists no act or omission by Tenant that with the giving of notice and passage of time would constitute a default under this Agreement and subject to the provisions of Section 3(c) below, Tenant shall have the right to extend the Term of this Agreement for up to four (4) additional periods of five (5) years each (each, a "Renewal Term") by giving written notice to City not less than three (3) months prior to the end of the then current Term or Renewal Term. As used in this Agreement, "Term" shall include the initial Term and any exercised Renewal Term.

3. RENT.

(a) Except as otherwise set forth herein, during the first three (3) Lease Years, as hereinafter defined, Tenant shall pay rent for the Weekday Parking Spaces leased hereunder at a rate equal to Fifty-Three and 75/100 Dollars (\$53.75) per space per month and for the Reserved Spaces leased hereunder at a rate equal to Sixty-Nine and 75/100 Dollars (\$69.75) per space per month. Commencing with the first day of the fourth Lease Year and continuing thereafter throughout the Term, Tenant shall pay rent for the parking spaces leased hereunder at the published parking rates then in effect for reserved and unreserved spaces and for weekday and 24/7 parking spaces, as the case may be, in the Garage as established by City Council from time to time, subject to all applicable discounts set forth in the City Code of the City of Norfolk.

(b) Rent shall be paid by Tenant annually in advance on or before the first day of the first calendar month during any Lease Year of the Term, as hereinafter defined, to the City of Norfolk, Division of Parking, 232 East Main Street, Norfolk, Virginia 23510 or to such other address as directed by the City. Rent for any partial calendar month shall be prorated and paid in advance. In the event Tenant desires to pay rent on a monthly basis, Tenant shall provide the City with written notice of such intent and the monthly parking rates for the first three (3) Lease Years set forth in Section 3(a) above shall be increased by Five and 00/100 Dollars (\$5.00) per space per month.

(c) The first "Lease Year" shall be the period commencing on the Commencement Date and running through the end of the twelfth (12th) full calendar month following the Commencement Date. Each succeeding Lease Year shall be the twelve (12) month period thereafter, except that if Tenant exercises all of its renewal options pursuant to Section 2 of this Agreement, the final Lease Year of the fourth Renewal Term shall expire on October 26, 2056.

(d) After the first three (3) Lease Years, the monthly parking rates payable by Tenant as rent pursuant to this Agreement may be increased from time to time by written notice from the City to Tenant in accordance with rate increases enacted by the City Council of the City of Norfolk, subject to all applicable discounts set forth in the City Code of the City of Norfolk.

4. **USE; REDUCTION OF NUMBER OF SPACES; EARLY TERMINATION.**

(a) Tenant shall not permit any parking spaces that are leased hereunder to be used for any purpose other than tenants and guests of the Property without the express consent of the City. In the event such consent is given, Tenant shall obtain the necessary parking permit and shall pay the standard, applicable market parking rate for any such parking space.

(b) Tenant specifically understands that maximum utilization of all parking spaces is extremely important to City, and Tenant covenants to do all things reasonably necessary to permit City to obtain such maximum utilization.

(c) Tenant may terminate this Agreement at any time by giving City not less than thirty (30) days prior written notice.

(d) Tenant may, at any time, lower the number of parking spaces leased pursuant to this Agreement with thirty (30) days' prior written notice to City, and, thereafter, the Maximum Allocated Amount shall be decreased to the number of parking spaces then being leased, the rent payable hereunder shall be reduced to reflect to the reduced Maximum Allocated Amount, and the Maximum Allocated Amount may not then be increased. City shall have no obligation to make available to Tenant any parking in excess of the then current Maximum Allocated Amount.

(e) Tenant may not charge tenants or guests of the Property for use of the parking spaces leased hereunder any amount in excess of the monthly parking rate payable pursuant to this Agreement or any other parking related fees in excess of those established by the City.

(f) Tenant agrees to cooperate in all reasonable respects with the City and use such systems as the City may reasonably adopt from time to time in order to track actual use of parking spaces and the number of vehicles parked in the Garage, so long as such systems are

generally consistent with those used in other comparable City owned garages to track similar uses of parking. Tenant agrees to, and agrees to cause its agents, employees and contractors to, use good faith in the use and administration of any such tracking systems in order to insure that each vehicle parked in the Garage is accounted for pursuant to the terms of this Agreement. Tenant acknowledges and agrees that attempts by Tenant, its agents, employees or contractors to circumvent such tracking systems and park additional vehicles without payment therefor may constitute grounds for termination of this Agreement.

(g) Use of the Garage by tenants and guests of the Property shall be subject to such reasonable rules and regulations as the City may adopt from time to time. The City shall reasonably and equitably enforce such rules and regulations.

(h) City shall cause its equipment at the entrance to the Garage to be upgraded to permit the tenants and guests of the Property to enter and exit the Garage by using their parking card or similar card, and Tenant shall reimburse City for the cost of such equipment within thirty (30) days after receipt of an invoice therefor up to a maximum amount of Five Thousand and 00/100 Dollars (\$5,000.00). Tenant shall be responsible for monitoring the equipment in order to allow Tenant to use the parking spaces leased hereunder for tenants and guests of the Property. The costs of any required maintenance or upgrades to the equipment installed pursuant to this Section 4(h) shall be the responsibility of the City.

5. OPERATION, MAINTENANCE AND REPAIR.

(a) City or its designated operator shall continue to operate the Garage with all services and facilities normally associated with comparable enclosed public parking garages in the City of Norfolk.

(b) Except as otherwise set forth herein, City shall allow unimpeded and open access to and from the Garage at all times, i.e., twenty-four (24) hours per day, seven (7) days per week, including holidays.

(c) The City shall continue to maintain the Garage, or contract for the maintenance thereof, at all times in good order and condition, clean and free of rodents, in accordance with maintenance standards employed at comparable public parking areas in the City of Norfolk, so that the Garage shall comply with all building codes, ordinances, regulations, and laws of any governmental authority having jurisdiction thereof. The City shall be responsible for maintenance and repair of the Garage and shall pay all charges for water, sewer, gas, electricity and other utilities. The term "maintenance" shall include, but not be limited to, painting, operation, inspection, testing, repair, replacement of mechanical, electrical or similar components and/or cleaning the Garage, including any of its elevators and appurtenant facilities.

(d) In the event of any damage or destruction of all or any portion of the Garage, the City, at its option, shall undertake to repair or rebuild the Garage to provide, as promptly as reasonably possible after the date of such damage or destruction, the then current Maximum Allocated Amount of parking. During the period of any such repair or rebuilding, the City shall provide replacement parking at other parking facilities owned by the City, and such facilities will be located as conveniently to the Property as possible and, if available, shall be a covered facility.

If the City, in its sole and absolute discretion, chooses not to repair or rebuild the Garage, the City shall provide replacement parking in accordance with this Section 5(d).

(e) The City shall provide and maintain interior and exterior illumination sufficient to illuminate the Garage and all means of pedestrian and vehicular access and egress thereto and therefrom between twilight and one hour after dawn.

(f) The City shall provide suitable and sufficient signs in and around the Garage as required for safe and orderly flow of pedestrian and vehicular traffic, including signage directing garage users to appropriate entrances and on any general directories provided by the City in the Garage.

(g) The City shall have the right to make and complete, using high quality workmanship and materials, such replacements, repairs, alterations and improvements to the Garage as it deems necessary or desirable in connection with the aforementioned usage consistent with applicable zoning laws. During the period of such replacements, repairs, alterations and improvements, the City shall provide replacement parking as provided by paragraph 5(d).

(h) In performing maintenance, the City shall use reasonable efforts to interfere as little as possible with the use, occupation and enjoyment of the Garage by Tenant. If possible, maintenance shall be confined to the area actually being so maintained.

6. **OPTION TO LEASE ADDITIONAL SPACES.**

Subject to any prior written agreements with regard to parking in the Garage, in the event that Norfolk Southern Corporation permanently reduces the number of spaces it or any permitted assignee of Norfolk Southern leases in the Garage, City shall provide Tenant with written notice, and Tenant shall have an option to lease up to fifteen (15) of the spaces released by Norfolk Southern provided that Tenant provides written notice to the City of its intent to lease such additional spaces within thirty (30) days after receipt of such notice from the City. This provision and the option granted herein shall not be triggered by the expiration of Norfolk Southern's lease agreements with the City unless and until it becomes clear, in the reasonable discretion of the City, that Norfolk Southern or its assignee will not enter into a new lease agreement for such spaces. In the event Tenant exercises its option to lease any additional spaces pursuant to this Section 6, all of the terms and conditions of this Agreement shall apply with respect to such spaces.

7. **CITY EVENTS.** Notwithstanding any provision of this Agreement to the contrary, any non-reserved space leased by Tenant hereunder shall be available (a) for use by the general public during major City events, such as the annual holiday parade, on weeknights outside of normal business hours and on weekends and (b) during weather events where the City opens its Garages to residents of Norfolk. The determination of whether or not an event constitutes a major City event or a weather event shall be made by the City Manager in his reasonable discretion.

8. **TAX LIABILITY.**

The provisions of this Agreement shall not be deemed to require Tenant to pay, by whatever name called, income or receipts or excess profits taxes assessed against the City, or any

capital levy, rent, gift or transfer taxes incurred by the City, pertaining to the ownership or operation of the Garage.

9. **TITLE TO PROPERTY.**

The City covenants that it is seized in fee simple of and has good and marketable title to the Property and any improvements thereon, subject to any recorded liens, leases, encumbrances, easements, covenants, conditions and restrictions and subject to existing zoning and other state and local requirements, none of which shall prevent the City from performing its obligations hereunder.

10. **INTEREST; ATTORNEYS' FEES.**

If Tenant fails to pay the City any amounts payable under this Agreement when due, following receipt by Tenant of notice thereof from the City, such past-due payments shall bear interest from the date due until paid at the rate of six percent (6%) per annum. In addition, Tenant shall pay all reasonable out-of-pocket costs and expenses of collection (including court costs and reasonable attorneys' fees) incurred by the City in collecting sums due under this Agreement.

11. **INSURANCE; LIABILITY.**

The City shall not be liable to Tenant or Tenant's tenants, employees, agents or contractors for any injury, damage, compensation or claim directly or indirectly relating to or arising out of any use of the Garage by Tenant tenants, employees, agents or contractors unless such injury, damage, compensation or claim results from the City's gross negligence or willful misconduct.

12. **ASSIGNMENT AND LEASING.**

(a) Tenant may not assign this Agreement, in whole or in part, or lease all or any part of the Maximum Allocated Amount of parking provided in the Garage, except to (i) a purchaser of the Property in the event of a sale thereof, (ii) an Affiliate of Tenant, (iii) any lender as collateral for financing of the Property or (iv) any purchaser of the Property at a foreclosure sale, transferee pursuant to a deed in lieu of foreclosure, or any receiver appointed for the Property; provided, however, it shall be a condition of any such assignment that the Property shall continue to be used for office/commercial purposes. In the event the Property ceases to be used for commercial office purposes, the City may terminate this Agreement at any time. For purposes hereof, "Affiliate" shall mean as to any person, any other person that, directly or indirectly, controls, is controlled by or is under common control with such person. For purposes of this definition, the term "control" (including the terms "controlling", "controlled by" and "under common control with") of a person means the possession, directly or indirectly, of the power to vote more than 50% of the voting stock or membership interests of such person or to direct or cause the direction of the management and policies of such person, whether through the ownership of voting stock or membership interests, or by contract or otherwise. The City agrees to enter into any agreement reasonably requested by any lender or prospective lender to confirm that the assignment of this Agreement to the lender is

permitted and to agree to give such lender notice of Tenant's default and a reasonable opportunity to cure such default.

13. **NOTICES.**

All notices or other communications required or desired to be given with respect to this Agreement shall be in writing and shall be addressed as follows:

To the City:

City Manager
City of Norfolk
Office of the City Manager
1100 City Hall Building
810 Union Street
Norfolk, VA 23510

with copies to:

Director of General Services
232 East Main Street, Suite 250
Norfolk, Virginia 23510

and:

City Attorney
City of Norfolk
Office of the City Attorney
900 City Hall Bldg.
810 Union Street
Norfolk, VA 23510

To Tenant:

CROWN CENTER ASSOCIATES, LLC
c/o Michael AND Richard GLASSER
580 E. MAIN STREET, Suite 600
NORFOLK, VIRGINIA 23510

AND

HARBOR GROUP MANAGEMENT Company
999 Waterade DRIVE
Suite 2300
NORFOLK, VIRGINIA 23510

Any communication so addressed shall be deemed duly served when received or when mailed by certified mail, postage prepaid, return receipt requested.

14. **TERMINATION.**

In the event Tenant violates any provision of this Agreement or defaults in any of its obligations hereunder, the City may terminate this Agreement if Tenant fails to cure such violation or default within thirty (30) days after Tenant's receipt of written notice of the violation or default. The City agrees to give a simultaneous duplicate notice of default to any of Tenant's lenders for which Tenant has provided the City a notice address in accordance with the notice provisions set forth above, and Tenant agrees to provide a copy of any notice of default received from the City to its lenders within three (3) business days of its receipt of any notice of default. Tenant shall have the right to terminate this Agreement at any time by giving the City thirty (30) days written notice prior to the effective date of the termination.

15. **ENTIRE AGREEMENT; RELEASE.**

This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior understandings and writings, and this Agreement may be amended or modified only by a writing signed by the City and Tenant. The Tenant hereby releases any claims or causes of action it may have under any prior agreement, written or oral, with respect to parking in the Garage.

16. **COMPLIANCE WITH FEDERAL IMMIGRATION LAW.**

At all times during which any term of this Agreement is in effect, Tenant shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed by either Title 8, section 1324a of the United States Code or the U.S. Attorney General.

17. **AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH.**

Tenant hereby represents that it is organized as a limited liability company and is authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

18. **MISCELLANEOUS.**

(a) The obligations of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns who shall be only those persons to whom this Agreement is permitted to be assigned in accordance with the terms and conditions of such agreement. Any such successors and assigns shall be deemed to have assumed and agreed to perform all obligations under this Agreement arising from and after such assignment.

(b) In the event that any provisions of this Agreement shall be held invalid, the same shall not affect in any respect whatsoever the validity of the remaining provisions of this Agreement.

(c) This Agreement and the rights of the parties hereunder shall be interpreted in accordance with the laws of the Commonwealth of Virginia. Venue shall be in the Circuit Court of the City of Norfolk, Virginia.

(d) A memorandum of this Agreement may be recorded in the land records of the City of Norfolk, Virginia, and the City agrees to execute and deliver to Tenant any such memorandum that accurately reflects the terms of this Agreement.

(e) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.